

FILED ENTERED  
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JUN 22 2009 LK

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARK RABY,

Plaintiff,

v.

ONSRUD CUTTER, LP, d/b/a ONSRUD, an  
Illinois Limited Partnership,

Defendant.

No. **C09-0863** JLF  
DECLARATION OF KURT STAROVICH



09-CV-00863-DECL

I, Kurt Starovich, declare as follows:

1. I am the Vice President of Finance and Administration for Defendant Onsrud Cutter, LP ("Onsrud Cutter"). I am over the age of 18 and otherwise competent to testify. I make this declaration in good faith, based on my personal knowledge and on records regularly maintained by Onsrud Cutter in the ordinary course of business.

2. Onsrud Cutter is a Limited Partnership, with its headquarters and principal place of business in Libertyville, Illinois.

3. The general partner for Onsrud Cutter is Onsrud, Incorporated, a Delaware corporation with its principal place of business in Libertyville, Illinois.

4. The limited partner for Onsrud Cutter is Leitz Metalworking Technology GmbH & CO. KG, a German Corporation with its headquarters and principal place of business in Oberkochen, Germany.

DECLARATION OF KURT STAROVICH - 1  
(09-2-05263-6)

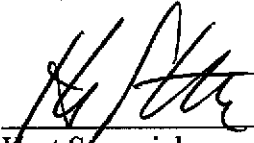
Jackson Lewis LLP  
One Union Square  
600 University Street, Suite 2900  
Seattle, Washington 98101  
(206) 405-0404

ORIGINAL

1           5.       On May 22, 2009, Onsrud Cutter, through its counsel, received a letter from Joel  
2 P. Nichols, dated May 19, 2009. The letter from Mr. Nichols included a copy of Summon and  
3 Complaint relating to an action that was commenced by Mark Raby in Snohomish County  
4 Superior Court against Onsrud Cutter, designated Case Number No. 09-2-05263-6A. Attached  
5 as Exhibit A is a true and correct copy of the letter from Mr. Nichols dated May 19, 2009.

6           I declare under penalty of perjury under the laws of the United States that the foregoing is  
7 true and correct.

8           Signed this 18th day of June, 2009 at Libertyville, Illinois.

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11 Kurt Starovich

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**DECLARATION OF SERVICE**

The undersigned declares under penalty of perjury under the laws of the State of Washington that a true and accurate copy of the document to which this declaration is affixed was sent via hand delivery, on this day, to:

Joel P. Nichols  
Deno Millikan Law Firm, PLLC  
3411 Colby Avenue  
Everett, WA 98201  
Tel: 425-259-2222  
Fax: 425-259-2033

Dated this 22nd day of June, 2009, at Seattle, Washington.

  
Andrea W. Preston

**EXHIBIT A**

Kent Millikan  
Brian C. Dale  
Stephanie N. Petersen  
Joel P. Nichols



DENO MILLIKAN LAW FIRM PLLC

Jennifer C. Gogert  
James A. Pautler  
Kristian E. Soholm

*Of counsel*  
James E. Deno

May 19, 2009

Matthew D. Lahey  
Schiff Hardin LLP  
6600 Sears Tower  
Chicago, IL 60606

Re: ***Mark Raby v. Onsrud Cutter, LP***

Dear Mr. Lahey:

Enclosed is a Summons and Complaint for Breach of Contract or Misrepresentation, Wrongfully Withheld Wages, and Other Relief which has been filed in the Snohomish County Superior Court under cause number 09-2-05263-6. Also enclosed is an Acceptance of Service. If you will accept service on behalf of Onsrud Cutter, please sign the document and return it to me for filing with the court. Otherwise, we will serve Onsrud Cutter directly.

Sincerely,

DENO MILLIKAN LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read 'JP Nichols', written over the printed name.

JOEL P. NICHOLS

JPN:kea  
Enclosures

cc: Client

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6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
7 IN AND FOR THE COUNTY OF SNOHOMISH

8 MARK RABY,

9 Plaintiff,

10 vs.

11 ONSRUD CUTTER, LP, d/b/a ONSRUD, an  
12 Illinois Limited Partnership,

13 Defendant.

No. 09-2-05263-6

ACCEPTANCE OF SERVICE

14 The undersigned, MATTHEW D. LAHEY of SCHIFF HARDIN LLP, hereby  
15 acknowledges that he is the Attorney for Defendant ONSRUD CUTTER, LP, d/b/a  
16 ONSRUD, an Illinois Limited Partnership, in the above captioned action, and does hereby  
17 acknowledge receipt and accepts service of the Summons and Complaint on behalf of the  
18 defendant herein.  
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ACCEPTANCE OF SERVICE- Page 1

DENO MILLIKAN LAW FIRM, PLLC  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

1 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

2 SCHIFF HARDIN LLP

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4 MATTHEW D. LAHEY  
5 Attorneys for Defendant Onsrud Cutter, LP  
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ACCEPTANCE OF SERVICE- Page 2

**DENO MILLIKAN LAW FIRM, PLLC**  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

**FILED**

MAY 15 2009

SONYA KRASZ  
COUNTY CLERK  
SNOHOMISH CO. WASH.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SNOHOMISH

MARK RABY,

Plaintiff,

vs.

ONSRUD CUTTER, LP, d/b/a ONSRUD, an  
Illinois Limited Partnership,

Defendant.

09 2 05263 6

No. \_\_\_\_\_

SUMMONS

TO THE DEFENDANT: A lawsuit has been started against you in the above entitled court by the above named plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the undersigned attorney for the plaintiff within 20 days after service, or within 60 days after the service of this summons if served outside the state of Washington, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where the plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned attorney, you are entitled to notice before a default judgment may be entered.

SUMMONS- Page 1

DENO MILLIKAN LAW FIRM, PLLC  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

COPY




1 You may demand that the plaintiff file this lawsuit with the court. If you do so, the  
2 demand must be in writing and must be served upon the plaintiff. Within 14 days after you  
3 serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of  
4 this summons and complaint will be void. If you wish to seek the advice of an attorney in  
5 this matter, you should do so promptly so that your written response, if any, may be served  
6 on time.

7 This summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State of  
8 Washington.

9 DATED this 14 day of May, 2009.

10 DENO MILLIKAN LAW FIRM, PLLC

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JOEL P. NICHOLS, WSBA #23353  
Attorney for Plaintiff Mark Raby

SUMMONS- Page 2

DENO MILLIKAN LAW FIRM, PLLC  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

**FILED**

MAY 15 2009

SONYA KRASHI  
COUNTY CLERK  
SNOHOMISH CO. WASH.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SNOHOMISH

MARK RABY,

Plaintiff,

vs.

ONSRUD CUTTER, LP, d/b/a ONSRUD, an  
Illinois Limited Partnership,

Defendant.

No. **09 2 05263 6**

COMPLAINT FOR BREACH OF  
CONTRACT OR  
MISREPRESENTATION,  
WRONGFULLY WITHHELD  
WAGES. AND OTHER RELIEF

Plaintiff, Mark Raby, by and through his attorney, Joel P. Nichols of DENO  
MILLIKAN LAW FIRM, PLLC, by way of Complaint for Breach of Contract, Negligent  
Misrepresentation, Wrongfully Withheld Wages, and Other Relief, alleges as follows:

**I. PARTIES, JURISDICTION AND VENUE**

1.1 Plaintiff Mark Raby is a resident of Snohomish County, Washington.

1.2 Defendant Onsrud Cutter, LP, d/b/a Onsrud, on information and belief, is an  
Illinois Limited Partnership licensed to do business in the State of Washington, and  
conducted business in Snohomish County, Washington at all times material hereto.

COMPLAINT FOR BREACH OF CONTRACT OR  
MISREPRESENTATION, WRONGFULLY WITHHELD  
WAGES, AND OTHER RELIEF—Page 1

DENO MILLIKAN LAW FIRM, PLLC  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

**COPY**

1           1.3    Jurisdiction and Venue: Jurisdiction and venue are appropriate with this  
2 court, and all events occurred within Everett, Snohomish County, Washington.

3                                   **II.    OPERATIVE FACTS**

4           2.1    From March 19, 2008 through March 10, 2009, Plaintiff worked for  
5 Defendant as a salesman under a written agreement in which Defendant guaranteed him a  
6 base salary and commission totaling \$95,000.00 per year for 2008 and 2009.

7           2.2    In January 2009, Defendant unilaterally cut Plaintiff's pay in half without  
8 notice. When Plaintiff questioned this action, Defendant explained it interpreted the  
9 contractual language to allow Defendant to modify the percentages of compensation it  
10 designated as salary and commission, provided those amounts totaled \$95,000 for 2009.  
11 Defendant then made a modified offer to Plaintiff of compensation for 2009, still  
12 guaranteeing a portion of salary and commission. Believing he had no choice but to accept  
13 Defendant's modification of the contract, Plaintiff accepted the modified offer of  
14 employment for 2009.

15           2.3.   On March 10, 2009, Defendant immediately discharged Plaintiff from his  
16 employment without cause.

17           2.4    Defendant's offers, and Plaintiff's acceptance of those offers, formed  
18 bilateral contracts that could not be terminated at will.

19           2.5    Plaintiff reasonably relied, to his detriment, on Defendant's guarantees that  
20 he would be paid salary and commission through the end of 2009.  
21

COMPLAINT FOR BREACH OF CONTRACT OR  
MISREPRESENTATION, WRONGFULLY WITHHELD  
WAGES, AND OTHER RELIEF-- Page 2

DENO MILLIKAN LAW FIRM, PLLC  
3411 COLBY AVENUE  
EVERETT, WASHINGTON 98201  
425-259-2222

1                   **III. FIRST CAUSE OF ACTION – BREACH OF CONTRACT**

2           3.1     Plaintiff realleges paragraphs 1.1 through 2.5 as if fully stated herein.

3           3.2     Defendant breached its contract with Plaintiff, both by failing to pay him as  
4 agreed upon and by terminating his employment, causing Plaintiff to suffer damages in an  
5 amount to be proven at trial.

6                   **IV. SECOND CAUSE OF ACTION – MISREPRESENTATION**

7           4.1     Plaintiff realleges paragraphs 1.1 through 3.2 as if fully stated herein.

8           4.2     In the alternative, Defendant intentionally or negligently misrepresented the  
9 conditions of Plaintiff's employment, causing Plaintiff to suffer damages in an amount to  
10 be proven at trial.

11                   **V. THIRD CAUSE OF ACTION – WAGES DUE**

12           5.1     Plaintiff realleges paragraphs 1.1 through 4.2 as if fully stated herein.

13           5.2     Defendant failed to pay wages owed to plaintiff pursuant to Washington  
14 law, RCW Ch. 49.48 et seq, and RCW Ch. 49.52, et seq. The amount of wages owed to  
15 plaintiff will be proven at the time of trial herein, is believed to be approximately  
16 \$74,904.06.

17           5.3     Defendant's failure to pay Plaintiff wages due was willful, in violation of  
18 RCW 49.52.050.

19           ////

20           ////

21  
COMPLAINT FOR BREACH OF CONTRACT OR  
MISREPRESENTATION, WRONGFULLY WITHHELD  
WAGES, AND OTHER RELIEF– Page 3

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**VI. DEMAND**

Plaintiff Mark Raby requests that judgment be entered against Defendant as follows:

6.1. Awarding plaintiff special damages for lost wages, benefits and medical expenses in an amount to be established at the time of trial.

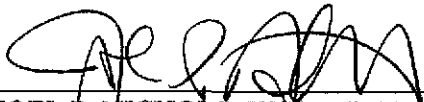
6.2. Awarding plaintiff double the amount of wrongfully withheld wages pursuant to RCW 49.52.070.

6.3. Awarding plaintiff actual and reasonable attorney fees and costs incurred in this action whether by contract, equity, or statute, including but not limited to RCW 49.48 et seq. and/or RCW 49.52 et seq.

6.4. Awarding plaintiff any additional or further relief which the court finds appropriate or just, including but not limited to prejudgment interest.

DATED this 14 day of May, 2009.

DENO MILLIKAN LAW FIRM, PLLC

  
JOEL P. NICHOLS, WSBA #23353  
Attorney for Plaintiff Mark Raby

COMPLAINT FOR BREACH OF CONTRACT OR  
MISREPRESENTATION, WRONGFULLY WITHHELD  
WAGES, AND OTHER RELIEF— Page 4

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